

**CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS
MINUTES**

THURSDAY, December 9, 2010
CITY COUNCIL CHAMBERS
555 S. 10TH STREET

The December 9, 2010 meeting of the Commission on Human Rights was called to order at 4 p.m. by Chairperson Wendy Francis.

ROLL CALL:

The roll call was called and documented as follows:

MEMBERS PRESENT:

Commissioners: Gene Crump, Karla Cooper, Mary Reece, Anitra Warrior, and Wendy Francis (Chairperson). Quorum present.

MEMBERS ABSENT:

Commissioners: Dick Noble, Jose Quintero, Takako Olson and Hazell Rodriguez.

STAFF PRESENT:

Angela Lemke, Margie Nichols, Jessica Sanchez, Loren Mestre-Roberts, Rod Confer, Jocelyn Golden, Terri Storer and Janice Folkner.

APPROVAL OF OCTOBER 28, 2010 MINUTES:

A motion was made by Commissioner Crump and seconded by Commissioner Reece to approve the minutes of the October 28, 2010 meeting as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting "aye" was: Commissioners Crump, Reece and Francis. Abstaining was: Commissioners Warrior and Cooper. Motion carried.

APPROVAL OF DECEMBER 9, 2010 AGENDA:

A motion was made by Commissioner Cooper and seconded by Commissioner Reece to approve the December 9, 2010 meeting agenda as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting “aye” was: Commissioners Cooper, Crump, Reece, Warrior and Francis. Motion carried.

Angela Lemke then came forward and stated that according to the attendance roster Wendy Francis has had perfect attendance for the calendar year. Gene Crump was next in line with only missing one meeting for the year.

MAYORAL PROCLAMATION

Mayor Beutler joined the meeting to acknowledge and celebrate Human Rights Day. He issued a proclamation of the City to indicate to the citizens the importance felt with respect to this day. What it means and how the ambitions and ideals of the United Nations Universal Declaration of Human Rights are carried out in Lincoln. He reminded everyone that the Universal Declaration of Human Rights was executed back in 1948 in recognition of the inherent dignity of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. He added that the Lincoln Commission on Human Rights should be proud of it's commitment to ensure civil and human rights for all Lincoln citizens by enforcing anti-discrimination laws that foster equal access to places of public accommodation and equal opportunity for housing and employment. He thanked the Lincoln Commission on Human Rights for the work they have done and carrying forward ideals of the United Nations Declaration here.

CASE DISPOSITIONS:

LCHR No.: 10-0312-009-E-R

A motion for a finding of **No Reasonable Cause** for all three allegations was made by Commissioner Crump. Motion failed for lack of a second.

A motion for a finding of **No Reasonable Cause** for retaliation was made by Commissioner Reece and a motion for a finding of **No Reasonable Cause** for constructive discharge was made by Commissioner Reece . Both motions were seconded by Commissioner Crump.

Discussion ensued regarding the retaliation and constructive discharge allegations. Commissioner Reece stated even though the Complainant chose not to return to work following her pregnancy and didn't return a phone call, she questioned whether it was reasonable for the Complainant to assume that conditions would not have changed since the management was the same as well as the other employees. Lemke clarified the Complainant had attempted to return, they had a meeting, she allegedly became very uncomfortable during the meeting because of the owner's behavior. According to Lemke, the Complainant alleged the paper stated that if she missed, called off work or found a replacement for one of her shifts she would be terminated. The Respondent alleged that he gave her a verbal warning saying they had some issues with her finding too many replacements for her shifts. This was a verbal warning and the piece of paper he asked her to sign only verified

her availability and rate of pay. Lemke stated there was no proof either way. Lemke went on to explain that the Complainant walked out of the meeting and the store manager attempted to call her to ask when she wanted to be put on the schedule. It is undisputed that the Complainant did not return the call, and a month or so later she turned in her resignation. Lemke felt it could be reasonable to assume that the environment would not change, but also felt the Complainant didn't give it a chance by returning to work to see if it had changed, which should be factored into the constructive discharge. Lemke went on to explain the retaliation part of the complaint and stated that there was no evidence the Complainant complained directly to the Respondent about discrimination.

Lemke then explained the letter that was written by the Respondent to the Complainant noting that the Complainant asked to step down as manager. Lemke reported that the Respondent's willingness to change this letter at the Complainant's request was puzzling if the Complainant had in fact asked to step down as manager.

Hearing no further discussion, Chairperson Francis asked for the roll call. Voting "aye" was: Commissioners Crump, Reece, Cooper and Francis. Abstaining was Commissioner Warrior. Motion carried.

A motion for a finding of **Reasonable Cause** for demotion based on sex was made by Commissioner Reece and seconded by Commissioner Francis.

Discussion ensued. Commissioner Reece inquired if the Complainant had any sick leave available to her. Lemke stated she was unsure about the sick leave, but the Complainant was entitled to vacation time. Commissioner Francis inquired if there have been any prior managers that have become pregnant or any pregnant employees. Lemke stated there was a manager about 4-5 years ago that became pregnant, and according to both the Complainant and the Respondent, there had not been any employment issues. Lemke was unable to locate this person to confirm whether she had experienced any problems. Lemke adds that there is currently a pregnant employee but she had become pregnant since this complaint had been filed.

Hearing no further discussion, Chairperson Francis asked for the roll call. Voting "aye" was: Commissioners Reece, Crump and Francis. Voting "nay" was Commissioner Cooper. Abstaining was Commissioner Warrior. Motion carried.

LCHR No.: 10-0428-019-E-R

A motion for a finding of **No Reasonable Cause** was made by Commissioner Crump and seconded by Commissioner Reece.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting “aye” was: Commissioners Crump, Reece, Cooper and Francis. Abstaining was Commissioner Warrior. Motion carried.

LCHR No.: 10-0803-035-E-R

A motion for a finding of **No Reasonable Cause** was made by Commissioner Francis and seconded by Commissioner Crump.

Discussion then ensued. Commissioner Francis inquired if the Respondent had been good about documenting the number of minutes per room for all of their employees and if they have fired other employees for going over the allotted thirty minutes per room. Nichols explained they do document time for all employees. They look at the total number of rooms by the total number of hours worked to get an average of minutes per room. There had been another employee that had continually gone over the 30 minutes per room who also received a warning, but quit shortly afterward.

Hearing no further discussion, Chairperson Francis asked for the roll call. Voting “aye” was: Commissioners Crump, Reece, Warrior, Cooper and Francis. Motion carried.

LCHR No.: 10-0827-014-H

A motion for a finding of **No Reasonable Cause** was made by Commissioner Cooper and seconded by Commissioner Crump.

Discussion then ensued. Commissioner Reece commented on the fact the lease was renewed in 2009 when the child was in the apartment, and inquired as to why it was not renewed a year later based on occupancy. Lemke stated the Respondent claimed it must have been missed, and they were having trouble with the Complainant getting behind on rent which seemed to be somewhat undisputed. Reece asked if the reason given was for the occupancy. Lemke replied nothing was written other than on a sticky note, but that no reason has to be given per the Landlord Tenant Act. Lemke adds that HUD has made it clear that the landlords can have a reasonable occupancy code, depending on a lot of different factors. She goes on to explain that the Lincoln Housing Code had previously been so many square feet per person, but that has since been done away with. Lemke added that now it is up to the inspector whether it creates a health and safety issue. Reece inquired whether the Complainant had been given sufficient notice. Lemke said she was given notice in August giving her until the end of October when her lease ran out as well as some verbal conversations before that. Francis asked if any of those conversations included information about a two bedroom apartment being available for them. Lemke stated the Respondent had offered that to them but the Complainant refused it because they could not afford it.

Hearing no further discussion, Chairperson Francis asked for the roll call. Voting “aye” was: Commissioners Warrior, Cooper, Crump and Francis. Voting “nay” was Reece. Motion carried.

LCHR No.: 10-1008-018-H

A motion for a finding of **No Reasonable Cause** was made by Commissioner Crump and seconded by Commissioner Reece.

Discussion then ensued. Commissioner Francis inquired as to the number of units in this complex and if there were any bed bugs found in any of the other units. Nichols explained it is two triplexes, six units total. There were bed bugs found in the Complainant's neighbors unit, which was prior to the Complainant finding bugs in her unit. The landlord first found out about the bed bugs due to the neighbor reporting them to him, but the landlord could not recall how long ago that was. Francis asked if the landlord had at that time taken action at that time. Nichols added the neighbor had reported it to the landlord but had treated the bugs themselves. For this complaint, the landlord claims he was unaware of the problem until he received a letter from the Health Department. The Respondent then had the exterminators go into the unit and check it. The Complainant stated that this was untrue as she had reported the problem to the landlord approximately three weeks prior. Francis asked the race of the neighbors that first experienced the bugs. Nichols replied they were white. The exterminator looked at all other units and the Respondent claims they did not find any further bugs. The Complainant claims that they did find one bedbug.

Hearing no further discussion, Chairperson Francis asked for the roll call. Voting "aye" was: Commissioners Reece, Cooper, Crump and Francis. Abstaining was Commissioner Warrior. Motion carried.

PRE-DETERMINATION SETTLEMENT AGREEMENTS:

LCHR NO.: 10-0811-013-H

LCHR NO.: 10-0910-016-H

LCHR NO.: 10-1026-020-H

LCHR NO.: 10-1101-024-H

A motion was made by Commissioner Reece and seconded by Commissioner Crump to accept the pre-determination settlement agreements as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting "aye" was: Commissioners Reece, Cooper, Crump and Francis. Abstaining was Commissioner Warrior. Motion carried.

SUCCESSFUL CONCILIATION:

LCHR No.: 09-1116-058-E-R

A motion was made by Commissioner Crump and seconded by Commissioner Francis to accept the successful conciliation as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting “aye” was: Commissioners Cooper, Crump, Reece, and Francis. Abstaining was Commissioner Warrior. Motion carried.

ADMINISTRATIVE CLOSURES/WITHDRAWALS:

LCHR No.: 10-0713-030-E-R

LCHR No.: 10-0713-031-E-R

A motion was made by Commissioner Reece and seconded by Commissioner Cooper to accept the administrative closures as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting “aye” was: Commissioners Crump, Reece, Cooper and Francis. Abstaining was Commissioner Warrior. Motion carried.

OLD BUSINESS:

A. Election of Officers

Chairperson Francis stated nominations for the Chair and Vice -Chair were made at the last meeting. Commissioner Francis was nominated for Chair and Commissioner Crump for Vice-Chair.

A motion was made by Commissioner Reece and seconded by Commissioner Crump to accept the election of officers . Hearing no further discussion, Chairperson Francis asked for the roll call. Voting “aye” was: Commissioners Reece, Warrior, Cooper, Crump and Francis. Motion carried.

B. Conference Planning Committee

Lemke informed us that plans are well under way. The Conference is scheduled for March 22 and 23, 2011. Help is needed for introducing speakers and many other areas. Another planning committee meeting is scheduled for December 10th at 12:30p.m. to discuss speakers needed for special topics. This meeting will be held at the K Street Complex.

C. Human Rights Award Nominations

Lemke reminded everyone to pass the word to get nominations in for the two awards, the Gerald Henderson Human Rights Award and the Fair Housing Award. Nomination forms are on the Human Rights website.

D. Update on Human Rights Office Space

Rod Confer passed out floor plans to show the proposed new Human Rights office area and gave a brief description of the new area. The drawings are expected to be complete next week and will then be going out for bid the following week. Hopefully with going into the winter months when construction is down, we can anticipate a fast completion date, possibly February or March.

Margie Nichols then informed Commissioners that this will be Commissioner Warrior's last commission meeting as she had to resign due to other obligations and a promotion at her current job. Commissioner Warrior was thanked for her service on the Commission and to the City.

NEW BUSINESS: None

PUBLIC COMMENTS: None

Next Meeting: The next meeting will be held on Thursday, January 27, 2011 at 4:00 p.m. in the City Council Chambers at the County City Building at 555 S. 10th Street.

ADJOURNED: The meeting adjourned at 4:53 p.m.